

# SENATE RECORD VOTE ANALYSIS

104th Congress  
1st Session

Vote No. 138

May 2, 1995, 11:30 a.m.  
Page S-5939 Temp. Record

## PRODUCT LIABILITY/Medical Malpractice Reporting

**SUBJECT:** Product Liability Fairness Act . . . H.R. 956. Gorton motion to table the Wellstone amendment No. 605 to the McConnell amendment No. 603 to the Gorton substitute amendment No. 596.

### ACTION: MOTION TO TABLE AGREED TO, 69-31

**SYNOPSIS:** As passed by the House, H.R. 956, the Product Liability Fairness Act, will establish uniform Federal and State civil litigation standards for product liability cases and other civil cases, including medical malpractice actions.

The Gorton substitute amendment would apply only to Federal and State civil product liability cases. It would abolish the doctrine of joint liability for noneconomic damages, would create a consistent standard for the award of punitive damages, and would limit punitive damage awards.

The McConnell amendment would reform Federal and State medical malpractice laws by eliminating joint liability for noneconomic and punitive damages, capping punitive damages at the greater of \$250,000 or 3 times economic losses, creating a 2-year statute of limitations starting from the time of discovery of an injury, allowing for periodic payment of awards over \$100,000, requiring the reduction of awards by the amount of compensation received from collateral sources, limiting attorney contingency fees to of the first \$150,000 recovered and of any additional amount recovered, and encouraging States to adopt alternative dispute resolution mechanisms.

**The Wellstone amendment** would provide that within 6 months a plan will be developed to make sure that the information on medical malpractice judgments against doctors that is contained in the National Practitioner Data Bank will be available to the public.

Debate was limited by unanimous consent. Following debate, Senator Gorton moved to table the Wellstone amendment. Generally, those favoring the motion to table opposed the amendment; those opposing the motion to table favored the amendment.

**No arguments were expressed in favor of the motion to table.**

**Those opposing** the motion to table contended:

(See other side)

YEAS (69)			NAYS (31)		NOT VOTING (0)	
Republicans (51 or 94%)	Democrats (18 or 39%)		Republicans (3 or 6%)	Democrats (28 or 61%)	Republicans (0)	Democrats (0)
Abraham	Helms	Baucus	Bond	Akaka		
Ashcroft	Hutchison	Biden	Mack	Bingaman		
Bennett	Inhofe	Breaux	Snowe	Boxer		
Brown	Jeffords	Bumpers		Bradley		
Burns	Kassebaum	Dodd		Bryan		
Campbell	Kempthorne	Feinstein		Byrd		
Chafee	Kyl	Ford		Conrad		
Coats	Lott	Glenn		Daschle		
Cochran	Lugar	Graham		Dorgan		
Cohen	McCain	Heflin		Exon		
Coverdell	McConnell	Johnston		Feingold		
Craig	Murkowski	Kohl		Harkin		
D'Amato	Nickles	Leahy		Hollings		
DeWine	Packwood	Lieberman		Inouye		
Dole	Pressler	Moynihan		Kennedy		
Domenici	Roth	Nunn		Kerrey		
Faircloth	Santorum	Pryor		Kerry		
Frist	Shelby	Rockefeller		Lautenberg		
Gorton	Simpson			Levin		
Gramm	Smith			Mikulski		
Grams	Specter			Moseley-Braun		
Grassley	Stevens			Murray		
Gregg	Thomas			Pell		
Hatch	Thompson			Reid		
Hatfield	Thurmond			Robb		
	Warner			Sarbanes		
				Simon		
				Wellstone		

#### EXPLANATION OF ABSENCE:

1—Official Buisiness  
2—Necessarily Absent  
3—Illness  
4—Other

#### SYMBOLS:

AY—Announced Yea  
AN—Announced Nay  
PY—Paired Yea  
PN—Paired Nay

Incompetent practitioners who have had a string of judgments against them in a State have found that they are able to move to other States and start new practices, where they injure more patients who are unaware of their reputations. Often, these incompetent doctors change their names to avoid identification. Information in the National Practitioner Data Bank on medical malpractice judgments against all doctors is currently available, by Social Security number, to managed care plans, hospitals, and medical societies. We think it should be available to consumers as well. We trust our colleagues agree, and will join us in voting against the motion to table.